

Exhibit A

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4 X CORP.,

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6
7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA

9 Plaintiff,

10 v.

11 BRIGHT DATA LTD.,

Defendant.

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13 Case No. 23-cv-03698-WHA

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28 **STIPULATED PROTECTIVE ORDER**

1. **PURPOSES AND LIMITATIONS**

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, trade secret, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

2. **DEFINITIONS**

2.1 **Challenging Party:** A Party or Non-Party that challenges the designation of information or items under this Order.

2.2 **“CONFIDENTIAL” Information or Items:** Information (regardless of how it is

1 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of
2 Civil Procedure 26(c), or the disclosure of which may cause competitive harm to a Party or Non-
3 Party.

4 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well
5 as their support staff).

6 2.4 Designated House Counsel: House Counsel who seek access to “HIGHLY
7 CONFIDENTIAL” information in this matter.

8 2.5 Designating Party: A Party or Non-Party that designates information or items that it
9 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY
10 CONFIDENTIAL or “HIGHLY CONFIDENTIAL – SOURCE CODE”.

11 2.6 Disclosure or Discovery Material: All items or information, regardless of the medium
12 or manner in which it is generated, stored, or maintained (including, among other things, testimony,
13 transcripts, and tangible things), that are produced or generated in disclosures or responses to
14 discovery in this matter.

15 2.7 Expert: A person with specialized knowledge or experience in a matter pertinent to
16 the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as
17 a consultant in this action, (2) is not a past or current employee of a Party or of a Party’s competitor,
18 and (3) at the time of retention, is not anticipated to become an employee of a Party or of a Party’s
19 competitor.

20 2.8 “HIGHLY CONFIDENTIAL” Information or Items: Extremely sensitive
21 “Confidential Information or Items,” disclosure of which to another Party or Non-Party would create
22 a substantial risk of serious harm that could not be avoided by less restrictive means.

23 2.9 “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items: Extremely
24 sensitive “Confidential Information or Items” representing computer code and associated comments
25 and revision histories, formulas, engineering specifications, or schematics that define or otherwise
26 describe in detail the algorithms or structure of software or hardware designs, disclosure of which
27 to another Party or Non-Party would create a substantial risk of serious harm that could not be
28 avoided by less restrictive means.

1 2.10 House Counsel: Attorneys who are employees of a party to this action and have
2 responsibility for overseeing this litigation. House Counsel does not include Outside Counsel of
3 Record or any other outside counsel. The identity of House Counsel must be disclosed to the
4 Producing Party prior to receiving Protected Materials.

5 2.11 Non-Party: Any natural person, partnership, corporation, association, or other legal
6 entity not named as a Party to this action.

7 2.12 Outside Counsel: Attorneys who are not employees of a party to this action but are
8 retained to represent or advise a party to this action and have appeared in this action on behalf of
9 that party or are affiliated with a law firm which has appeared on behalf of that party.

10 2.13 Party: Any party to this action, including all of its officers, directors, employees,
11 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

12 2.14 Producing Party: A Party or Non-Party that produces Disclosure or Discovery
13 Material in this action.

14 2.15 Professional Vendors: Persons or entities that provide litigation support services
15 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,
16 storing, or retrieving data in any form or medium) and their employees and subcontractors.

17 2.16 Protected Material: Any Disclosure or Discovery Material that is designated as
18 “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL” or as “HIGHLY CONFIDENTIAL –
19 SOURCE CODE.”

20 2.17 Receiving Party: A Party that receives Disclosure or Discovery Material from a
21 Producing Party.

22 3. SCOPE

23 The protections conferred by this Stipulation and Order cover not only Protected or
24 Discovery Materials (as defined above), but also (1) any information copied or extracted from
25 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and
26 (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal
27 Protected Material. However, the protections conferred by this Stipulation and Order do not cover
28 the following information: (a) any information that is in the public domain at the time of disclosure

1 to a Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party
2 as a result of publication not involving a violation of this Order, including becoming part of the
3 public record through trial or otherwise; and (b) any information known to the Receiving Party prior
4 to the disclosure or obtained by the Receiving Party after the disclosure from a source who obtained
5 the information lawfully and under no obligation of confidentiality to the Designating Party. Any
6 use of Protected Material at trial shall be governed by a separate agreement or order.

7 **4. DURATION**

8 Even after final disposition of this litigation, the confidentiality obligations imposed by this
9 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
10 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and
11 defenses in this action, with or without prejudice; and (2) final judgment herein after the completion
12 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the
13 time limits for filing any motions or applications for extension of time pursuant to applicable law.

14 **5. DESIGNATING PROTECTED MATERIAL**

15 **5.1 Exercise of Restraint and Care in Designating Material for Protection**. Each Party
16 or Non-Party that designates information or items for protection under this Order must take care to
17 limit any such designation to specific material that qualifies under the appropriate standards. To
18 the extent it is practical to do so, the Designating Party must designate for protection only those
19 parts of material, documents, items, or oral or written communications that qualify – so that other
20 portions of the material, documents, items, or communications for which protection is not
21 warranted are not swept unjustifiably within the ambit of this Order.

22 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
23 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to
24 unnecessarily encumber or retard the case development process or to impose unnecessary
25 expenses and burdens on other parties) expose the Designating Party to sanctions.

26 If it comes to a Designating Party's attention that information or items that it designated
27 for protection do not qualify for protection at all or do not qualify for the level of protection
28 initially asserted, that Designating Party must promptly notify all other parties that it is

1 withdrawing the mistaken designation.

2 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
3 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,

4 Disclosure or Discovery

5 Material that qualifies for protection under this Order must be clearly so designated before the
6 material is disclosed or produced.

7 Designation in conformity with this Order requires:

8 (a) for information in documentary form (e.g., paper or electronic documents, but
9 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party
10 affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” or “HIGHLY
11 CONFIDENTIAL – SOURCE CODE” to each page that contains protected material. If only a
12 portion or portions of the material on a page qualifies for protection, the Producing Party also must
13 clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins) and
14 must specify, for each portion, the level of protection being asserted.

15 A Party or Non-Party that makes original documents or materials available for inspection
16 need not designate them for protection until after the inspecting Party has indicated which material
17 it would like copied and produced. During the inspection and before the designation, all of the
18 material made available for inspection shall be deemed “HIGHLY CONFIDENTIAL.” After the
19 inspecting Party has identified the documents it wants copied and produced, the Producing Party
20 must determine which documents, or portions thereof, qualify for protection under this Order.
21 Then, before producing the specified documents, the Producing Party must affix the appropriate
22 legend (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
23 SOURCE CODE) to each page that contains Protected Material. If only a portion or portions of
24 the material on a page qualifies for protection, the Producing Party also must clearly identify the
25 protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for
26 each portion, the level of protection being asserted.

27 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
28 Designating Party identify on the record, before the close of the deposition, hearing, or other

1 proceeding, all protected testimony and specify the level of protection being asserted. When it is
2 impractical to identify separately each portion of testimony that is entitled to protection and it
3 appears that substantial portions of the testimony may qualify for protection, the Designating Party
4 may invoke on the record (before the deposition, hearing, or other proceeding is concluded) a right
5 to have up to 21 days to identify the specific portions of the testimony as to which protection is
6 sought and to specify the level of protection being asserted. Only those portions of the testimony
7 that are appropriately designated for protection within the 21 days shall be covered by the
8 provisions of this Stipulated Protective Order. Alternatively, a Designating Party may specify, at
9 the deposition or up to 21 days afterwards if that period is properly invoked, that the entire
10 transcript shall be treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.”

11 Parties shall give the other parties notice if they reasonably expect a deposition, hearing or
12 other proceeding to include Protected Material so that the other parties can ensure that only
13 authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound”
14 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition
15 shall not in any way affect its designation as “CONFIDENTIAL” or “HIGHLY
16 CONFIDENTIAL.”

17 Transcripts containing Protected Material shall have an obvious legend on the title page
18 that the transcript contains Protected Material, and the title page shall be followed by a list of all
19 pages (including line numbers as appropriate) that have been designated as Protected Material and
20 the level of protection being asserted by the Designating Party. The Designating Party shall inform
21 the court reporter of these requirements. Any transcript that is prepared before the expiration of a
22 21-day period for designation shall be treated during that period as if it had been designated
23 “HIGHLY CONFIDENTIAL” in its entirety unless otherwise agreed. After the expiration of that
24 period, the transcript shall be treated only as actually designated.

25 (c) for information produced in some form other than documentary and for any other
26 tangible items, that the Producing Party affix in a prominent place on the exterior of the container
27 or containers in which the information or item is stored the legend “CONFIDENTIAL” or
28 “HIGHLY CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – SOURCE CODE.” If only a

1 portion or portions of the information or item warrant protection, the Producing Party, to the
2 extent practicable, shall identify the protected portion(s) and specify the level of protection being
3 asserted.

4 5.3 Inadvertent Failures to Designate. An inadvertent failure to designate qualified
5 information or items does not, standing alone, waive the Designating Party's right to secure
6 protection under this Order for such material. Upon correction of a designation, the Receiving Party
7 must make reasonable efforts to assure that the material is treated in accordance with the provisions
8 of this Order.

9 6. CHALLENGING FINAL CONFIDENTIALITY DESIGNATIONS

10 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
11 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality
12 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
13 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
14 challenge a confidentiality designation by electing not to mount a challenge promptly after the
15 original designation is disclosed.

16 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process
17 by providing written notice of each designation it is challenging and describing the basis for each
18 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must
19 recite that the challenge to confidentiality is being made in accordance with this specific paragraph
20 of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must
21 begin the process by conferring directly (in voice to voice dialogue; other forms of communication
22 by themselves are not sufficient) within 14 days of the date of service of notice. In conferring, the
23 Challenging Party must explain the basis for its belief that the confidentiality designation was not
24 proper and must give the Designating Party an opportunity to review the designated material, to
25 reconsider the circumstances, and, if no change in designation is offered, to explain the basis for the
26 chosen designation. A Challenging Party may proceed to the next stage of the challenge process
27 only if it has engaged in this meet and confer process first or establishes that the Designating Party
28 is unwilling to participate in the meet and confer process in a timely manner.

1 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
2 intervention, either party may file and serve a motion under Civil Local Rule 7 (and in compliance
3 with Civil Local Rule 79-5, if applicable) Each such motion must be accompanied by a competent
4 declaration affirming that the movant has complied with the meet and confer requirements imposed
5 in the preceding paragraph.

6 The burden of persuasion in any such challenge proceeding shall be on the Designating
7 Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose
8 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.
9 All parties shall continue to afford the material in question the level of protection to which it is
10 entitled under the Producing Party's designation until the court rules on a motion to maintain or alter
11 the designation.

12 7. ACCESS TO AND USE OF PROTECTED MATERIAL

13 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
14 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
15 defending, or attempting to settle this litigation. Protected Material may be disclosed only to the
16 categories of persons and under the conditions described in this Order. When the litigation has been
17 terminated, a Receiving Party must comply with the provisions of section 15 below (FINAL
18 DISPOSITION).

19 Protected Material must be stored and maintained by a Receiving Party at a location and in
20 a secure manner that ensures that access is limited to the persons authorized under this Order.

21 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
22 by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any
23 information or item designated “CONFIDENTIAL” only to:

24 (a) the Receiving Party's Outside Counsel of Record in this action, as well as employees of
25 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for
26 this litigation;

27 (b) the officers, directors, and employees (including House Counsel) of the Receiving Party
28 (1) to whom disclosure is reasonably necessary for this litigation, and (2) who have signed the

1 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

2 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably
3 necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be
4 Bound” (Exhibit A);

5 (d) the court and its personnel;

6 (e) court reporters and their staff, professional jury or trial consultants, mock jurors, and
7 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have
8 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

9 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
10 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),

11 **unless otherwise agreed by the Designating Party or ordered by the court.** Pages of transcribed
12 deposition testimony or exhibits to depositions that reveal Protected Material must be separately
13 bound by the court reporter and may not be disclosed to anyone except as permitted under this
14 Stipulated Protective Order.

15 (g) the author or recipient of a document containing the information or a custodian, other
16 person who otherwise possessed or knew the information, or person referenced by name in the
17 document.

18 7.3 **Disclosure of “HIGHLY CONFIDENTIAL” and “HIGHLY CONFIDENTIAL –**
19 **SOURCE CODE” Information or Items.** Unless otherwise ordered by the court or permitted in
20 writing by the Designating Party, a Receiving Party may disclose any information or item designated
21 “HIGHLY CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – SOURCE CODE” only to:

22 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of
23 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for
24 this litigation;

25 (b) Up to two (2) Designated House Counsel of the Receiving Party (1) who has no
26 involvement in competitive decision-making, (2) to whom disclosure is reasonably necessary for
27 this litigation, (3) who has signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
28 and (4) as to whom the procedures set forth in paragraph 7.4(a)(1), below, have been followed;

(c) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4(a)(2), below, have been followed;

(d) the court and its personnel;

(e) court reporters and their staff, professional jury or trial consultants, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

(e) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), **unless otherwise agreed by the Designating Party or ordered by the court.** Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order.

(f) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information, or person referenced by name in the document.

7.4 Procedures Relating to Disclosure of “HIGHLY CONFIDENTIAL” Information to Designated House Counsel or Experts.

(a)(1) Unless otherwise ordered by the court or agreed to in writing by the Designating Party, a Party that seeks to disclose to Designated House Counsel any information or item that has been designated “HIGHLY CONFIDENTIAL” first must make a written request to the Designating Party that (1) sets forth the full name of the Designated House Counsel and the city and state of his or her residence, and (2) describes the Designated House Counsel’s current and reasonably foreseeable future primary job duties and responsibilities in sufficient detail to determine if Designated House Counsel is involved, or may become involved, in any competitive decision-making.

(a)(2) Unless otherwise ordered by the court or agreed to in writing by the Designating Party, a Party that seeks to disclose to an Expert (as defined in this Order) any information or item that has been designated “HIGHLY CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – SOURCE

1 CODE" first must make a written request to the Designating Party that (1) identifies the general
2 categories of "HIGHLY CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – SOURCE CODE"
3 information that the Receiving Party seeks permission to disclose to the Expert, (2) sets forth the
4 full name of the Expert and the city and state of his or her primary residence, (3) attaches a copy of
5 the Expert's current resume, (4) identifies the Expert's current employer(s), (5) identifies each
6 person or entity from whom the Expert has received compensation or funding for work in his or her
7 areas of expertise or to whom the expert has provided professional services, including in connection
8 with a litigation, at any time during the preceding five years,¹ and (6) identifies (by name and
9 number of the case, filing date, and location of court) any litigation in connection with which the
10 Expert has offered expert testimony, including through a declaration, report, or testimony at a
11 deposition or trial, during the preceding five years.

12 (b) A Party that makes a request and provides the information specified in the preceding
13 respective paragraphs may disclose the subject Protected Material to the identified Designated
14 House Counsel or Expert unless, within 14 days of delivering the request, the Party receives a
15 written objection from the Designating Party. Any such objection must set forth in detail the grounds
16 on which it is based.

17 (c) A Party that receives a timely written objection must meet and confer with the
18 Designating Party (through direct voice to voice dialogue) to try to resolve the matter by agreement
19 within seven days of the written objection. If no agreement is reached, the Party seeking to make
20 the disclosure to Designated House Counsel or the Expert may file a motion as provided in Civil
21 Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) seeking permission from
22 the court to do so. Any such motion must describe the circumstances with specificity, set forth in
23 detail the reasons why the disclosure to Designated House Counsel or the Expert is reasonably
24 necessary, assess the risk of harm that the disclosure would entail, and suggest any additional means
25 that could be used to reduce that risk. In addition, any such motion must be accompanied by a

26 ¹ If the Expert believes any of this information is subject to a confidentiality obligation to a third-
27 party, then the Expert should provide whatever information the Expert believes can be disclosed
28 without violating any confidentiality agreements, and the Party seeking to disclose to the Expert
shall be available to meet and confer with the Designating Party regarding any such engagement.

1 competent declaration describing the parties' efforts to resolve the matter by agreement (i.e., the
2 extent and the content of the meet and confer discussions) and setting forth the reasons advanced by
3 the Designating Party for its refusal to approve the disclosure.

4 In any such proceeding, the Party opposing disclosure to Designated House Counsel or the
5 Expert shall bear the burden of proving that the risk of harm that the disclosure would entail (under
6 the safeguards proposed) outweighs the Receiving Party's need to disclose the Protected Material
7 to its Designated House Counsel or Expert.

8. **SOURCE CODE**

9 (a) To the extent production of source code becomes necessary in this case, a Producing
10 Party may designate source code as "HIGHLY CONFIDENTIAL - SOURCE CODE" if it
11 comprises or includes confidential, proprietary or trade secret source code.

12 (b) Protected Material designated as "HIGHLY CONFIDENTIAL – SOURCE CODE"
13 shall be subject to all of the protections afforded to "HIGHLY CONFIDENTIAL" information, and
14 may be disclosed only to the individuals to whom "HIGHLY CONFIDENTIAL" information may
15 be disclosed as set forth in Paragraphs 7.3 and 7.4, with the exception of Designated House Counsel.

16 (c) Any source code produced in discovery shall be made available for inspection, in a
17 format allowing it to be reasonably reviewed and searched, during normal business hours or at other
18 mutually agreeable times, at an office of the Producing Party's counsel or another mutually agreed
19 upon location. The source code shall be made available for inspection on a secured computer in a
20 secured room without Internet access or network access to other computers, and the Receiving Party
21 shall not copy, remove, or otherwise transfer any portion of the source code onto any recordable
22 media or recordable device. The Producing Party may visually monitor the activities of the
23 Receiving Party's representatives during any source code review, but only to ensure that there is no
24 unauthorized recording, copying, or transmission of the source code. Each day that source code is
25 viewed, all persons viewing source code shall sign a log that will include the names of all persons
26 who enter the room to view the source code and the times when they enter and depart.

27 (d) The Receiving Party may request paper copies of limited portions of source code that
28 are reasonably necessary for the preparation of court filings, pleadings, expert reports, or other

1 papers, or for deposition or trial, but shall not request paper copies for the purposes of reviewing the
2 source code other than electronically as set forth in paragraph (c) in the first instance. The Producing
3 Party shall provide all such source code in paper form including bates numbers and the label
4 "HIGHLY CONFIDENTIAL - SOURCE CODE." The Producing Party may challenge the amount
5 of source code requested in hard copy form pursuant to the dispute resolution procedure and
6 timeframes set forth in Paragraph 6 whereby the Producing Party is the "Challenging Party" and the
7 Receiving Party is the "Designating Party" for purposes of dispute resolution.

8 (e) The Receiving Party shall maintain a record of any individual who has inspected any
9 portion of the source code in electronic or paper form. The Receiving Party shall maintain all paper
10 copies of any printed portions of the source code in a secured, locked area. The Receiving Party
11 shall not create any electronic or other images of the paper copies and shall not convert any of the
12 information contained in the paper copies into any electronic format. The Receiving Party shall only
13 make additional paper copies if such additional copies are (1) necessary to prepare court filings,
14 pleadings, or other papers (including a testifying expert's expert report), (2) necessary for
15 deposition, or (3) otherwise necessary for the preparation of its case. Any paper copies used during
16 a deposition shall be retrieved by the Producing Party at the end of each day and must not be given
17 to or left with a court reporter or any other unauthorized individual.

18 9. **PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER**
19 **LITIGATION**

20 If a Party is served with a subpoena or a court order issued in other litigation that compels
21 disclosure of any information or items designated in this action as "CONFIDENTIAL" or "HIGHLY
22 CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – SOURCE CODE" that Party must:

23 (a) promptly notify in writing the Designating Party. Such notification shall include a copy
24 of the subpoena or court order;

25 (b) promptly notify in writing the party who caused the subpoena or order to issue in the
26 other litigation that some or all of the material covered by the subpoena or order is subject to this
27 Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

28 (c) cooperate with respect to all reasonable procedures sought to be pursued by the

1 Designating Party whose Protected Material may be affected.

2 If the Designating Party timely seeks a protective order, the Party served with the subpoena
3 or court order shall not produce any information designated in this action as “CONFIDENTIAL” or
4 “HIGHLY CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – SOURCE CODE” before a
5 determination by the court from which the subpoena or order issued, unless the Party has obtained
6 the Designating Party’s permission. The Designating Party shall bear the burden and expense of
7 seeking protection in that court of its confidential material – and nothing in these provisions should
8 be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful
9 directive from another court.

10. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
11 LITIGATION

12 (a) The terms of this Order are applicable to information produced by a Non-Party in
13 this action and designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” or “HIGHLY
14 CONFIDENTIAL – SOURCE CODE.” Such information produced by Non-Parties in connection
15 with this litigation is protected by the remedies and relief provided by this Order. Nothing in these
16 provisions should be construed as prohibiting a Non-Party from seeking additional protections.

17 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-
18 Party’s confidential information in its possession, and the Party is subject to an agreement with the
19 Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

20 1. promptly notify in writing the Requesting Party and the Non-Party that some
21 or all of the information requested is subject to a confidentiality agreement with a Non-Party;

22 2. promptly provide the Non-Party with a copy of the Stipulated Protective
23 Order in this litigation, the relevant discovery request(s), and a reasonably specific description of
24 the information requested; and

25 3. make the information requested available for inspection by the Non-Party.

26 (c) If the Non-Party fails to object or seek a protective order from this court within 14
27 days of receiving the notice and accompanying information, the Receiving Party may produce the
28 Non-Party’s confidential information responsive to the discovery request. If the Non-Party timely

1 seeks a protective order, the Receiving Party shall not produce any information in its possession or
2 control that is subject to the confidentiality agreement with the Non-Party before a determination
3 by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense
4 of seeking protection in this court of its Protected Material.

5 **11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

6 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
7 Material to any person or in any circumstance not authorized under this Stipulated Protective Order,
8 the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized
9 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c)
10 inform the person or persons to whom unauthorized disclosures were made of all the terms of this
11 Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to
12 Be Bound” that is attached hereto as Exhibit A.

13 **12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED**
14 **MATERIAL**

15 The inadvertent or unintentional disclosure by the Producing Party of information subject to
16 a claim of privilege, including, but not limited to, the attorney-client privilege, or the work product
17 doctrine, regardless of whether the information was so designated at the time of disclosure, shall not
18 be deemed a waiver in whole or in part of the party’s claim of privilege. As an example, but without
19 limiting the foregoing, the disclosure of privileged information shall be deemed inadvertent if the
20 disclosure was the result of the failure of search terms to capture such documents. In all cases,
21 information that contains privileged information or attorney-work product shall be immediately
22 returned, sequestered, or destroyed if information appears on its face to have been inadvertently
23 produced or if the Producing Party provides notice of the inadvertent production and the basis for
24 the privilege claim within thirty (30) days of the Producing Party’s discovery of the inadvertent
25 production. The resolution of any dispute that may arise concerning whether a document is
26 privileged or entitled to protection as trial-preparation material shall be governed by Rule
27 26(b)(5)(B).

13. **MISCELLANEOUS**14.1 **Right to Further Relief.** Nothing in this Order abridges the right of any person to seek
its modification by the court in the future.14.2 **Right to Assert Other Objections.** By stipulating to the entry of this Protective Order
no Party waives any right it otherwise would have to object to disclosing or producing any
information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
Party waives any right to object on any ground to use in evidence of any of the material covered by
this Protective Order.14.3 **Filing Protected Material.** Without written permission from the Designating Party or
a court order secured after appropriate notice to all interested persons, a Party may not file in the
public record in this action any Protected Material. A Party that seeks to file under seal any Protected
Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal
pursuant to a court order authorizing the sealing of the specific Protected Material at issue. Pursuant
to Civil Local Rule 79-5, a sealing order will issue only upon a request establishing that the Protected
Material at issue is privileged, protectable as a trade secret, or otherwise entitled to protection under
the law. If a Receiving Party's request to file Protected Material under seal pursuant to Civil Local
Rule 79-5 is denied by the court, then the Receiving Party may file the Protected Material in the
public record pursuant to Civil Local Rule 79-5 unless otherwise instructed by the court.14. **FINAL DISPOSITION**19 Within 60 days after the final disposition of this action, as defined in paragraph 4, each
20 Receiving Party must return all Protected Material to the Producing Party or destroy such material.
21 As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
22 summaries, and any other format reproducing or capturing any of the Protected Material. Whether
23 the Protected Material is returned or destroyed, the Receiving Party must submit a written
24 certification to the Producing Party (and, if not the same person or entity, to the Designating Party)
25 by the 60-day deadline that affirms that the Receiving Party has not retained any copies, abstracts,
26 compilations, summaries or any other format reproducing or capturing any of the Protected Material.
27 Notwithstanding this provision, Counsel are entitled to retain archival copies of all pleadings,
28

1 motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence,
2 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work
3 product, even if such materials contain Protected Material. Any such archival copies that contain or
4 constitute Protected Material remain subject to this Protective Order as set forth in Section 4
5 (DURATION).

6 IT IS SO ORDERED.

7
8 DATED: _____ Attorneys for Plaintiff

9
10 DATED: _____ Attorneys for Defendant

11 PURSUANT TO STIPULATION, IT IS SO ORDERED.

12
13 DATED: _____ WILLIAM ALSUP
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1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of perjury that I have read
5 in its entirety and understand the Stipulated Protective Order that was issued by the United States
6 District Court for the Northern District of California on _____ in the case of **X Corp. v.**
7 **Bright Data, Ltd., No. C 23-03698-WHA (N.D. Cal.).** I agree to comply with and to be bound by
8 all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to
9 so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly
10 promise that I will not disclose in any manner any information or item that is subject to this
11 Stipulated Protective Order to any person or entity except in strict compliance with the provisions
12 of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for
14 the Northern District of California for the purpose of enforcing the terms of this Stipulated
15 Protective Order, even if such enforcement proceedings occur after termination of this action.

16
17 Date: _____

18 City and State where sworn and signed: _____

19 Printed name: _____
20 [printed name]

21 Signature: _____
22 [signature]

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